

**NEVADA DEPARTMENT OF CORRECTIONS
ADMINISTRATIVE REGULATION
304**

**EQUAL EMPLOYMENT OPPORTUNITY (EEO) DISCRIMINATION
CHARGES**

Supersedes: AR 304 (Temporary, 09/07/11)
Effective Date: 06/17/12

AUTHORITY: Title VII of the Civil Rights Act of 1964, amended
The Pregnancy Discrimination Act of 1978
The Equal Pay Act of 1963 (EPA)
The Age Discrimination in Employment Act of 1967 (ADEA)
Title I of the Americans with Disabilities Act of 1990 (ADA)
Section 102 and 103 of the Civil Rights Act of 1991
American's with Disabilities Act Amendments Act of 2008
The Genetic Information Nondiscrimination Act of 2008 (GINA)
NRS 613.310; 613.330
Nevada Administrative Code 284.658

RESPONSIBILITY

The Director has final authority for approval of all revisions; for approval of all written interpretations of the provisions of this procedure and review of appeals of decisions from the various wardens, managers, or other hearing authorities on discrimination complaints. To ensure Equal Employment Opportunity.

It is the responsibility of the Division Administrator, Human Resources to ensure the professional operation of the Department's EEO Programs and discrimination charge processes. To provide a means of redress for employees, former employees and applicants who feel they are victims of discrimination, through EEO Counseling, Alternative Dispute Resolution (ADR), Mediation, and the EEO complaint process.

304.01 INFORMAL EEO CHARGE PROCESS

1. Employees are encouraged to attempt informal resolution of their charges of discrimination within their chain of command.

A. An employee alleging unlawful employment discrimination based on any pertinent state or federal law or regulation may file their charge with an EEO Official, Manager, Supervisor, or the State Personnel Investigative Unit.

B. An employee may use the employee formal grievance procedure, NAC 284.658, for the adjustment of a grievance.

C. Charges of discrimination are considered allegations until the final determination has been documented.

D. Discrimination charges are confidential and will be dealt with as confidentially as possible, to the extent necessary to carry out the investigation and inform only those with any need to know.

E. Employees who submit discrimination and sexual harassment charges shall not be subjected to retaliation by other employees:

- (1) Complaining to anyone about alleged discrimination against oneself or others;
- (2) Threatening to file a charge of discrimination;
- (3) Assisting a co-worker with filing a complaint;
- (4) Acting as a witness in an investigation;
- (5) Bringing to an aggressor's attention their misconduct;
- (6) Assisting with an investigation.

2. An Employee may also enter their charge(s) of discrimination into NOTIS. The person who receives a charge which alleges misconduct, is responsible to ensure the allegation is entered into NOTIS.

3. When contacted, EEO Officials will schedule and conduct Intake Interviews. Charging Party' will be reminded of their employment rights, and their right to utilize internal and/or external charge resources.

4. EEO Officials will prepare and submit Intake Interview Reports to the State Department of Personnel's Investigative Unit, to include provided documents. Non-Title VII complaints will be identified, as such on the Intake Interview Report and entered into NOTIS.

5. After the State Department of Personnel Investigative Unit has completed its investigation, the investigator will generate a report and the report will be provided to the Director and the EEO Office.

A. The Director may consult with any persons regarding a finding in a case.

B. The Director may require a finding review by the EEO Office.

C. The Director may find no basis for the charge.

D. The Director may find a basis for disciplinary action and refer the charge to the Inspector General for further action.

6. EEO Officials will provide, in writing, the Director's finding to the Charging Party and the Alleged Responsible Individual.

7. Discrimination charge case files and records are confidential and the property of the Department of Corrections.

304.02 FORMAL EEO CHARGE PROCESS (EXTERNAL)

1. Filing an informal charge with the Department of Corrections and/or the State Department of Personnel's Investigative Unit does not prohibit employees from exercising their right to file a formal charge, regarding the same matter. Formal charges must be filed with either the State Nevada Equal Rights Commission (NERC) or the Federal Equal Employment Opportunity Commission (EEOC) regulatory agencies.

2. Employees electing to file a formal charge with NERC or EEOC must file their charges not later than 300 calendar days from the date of the alleged violation and/or the last action by the agency, to ensure a timely complaint. All laws enforced by EEOC, except the Equal Pay Act, require filing a charge with EEOC before a private lawsuit may be filed in court.

3. NERC and/or EEOC will determine whether they will accept a Charging Party's allegations for investigation. If accepted, a formal charge notice will be sent to the EEO Office. If a charge notice is mistakenly received by a non-EEO Official, the EEO Office shall be contacted immediately. The charge notice shall be handled as confidential. Non-EEO Officials are prohibited from responding to any formal charges or making copies of a formal charge notice.

4. EEO Officials are responsible for investigating all formal charges and preparing the agency's official position statement response to NERC and/or EEOC.

5. NERC and/or EEOC will provide all findings of discrimination and/or the dismissal of a case to the EEO Officials.

A. If the EEOC does not render a finding of discrimination, a Notice of Dismissal and the Right to Sue letter will be provided to the Charging Party and the EEO Office.

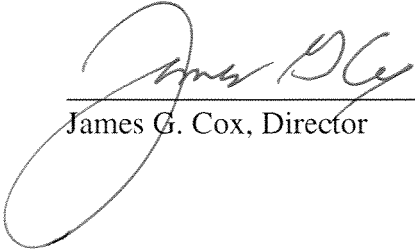
6. If the NERC or EEOC elects to investigate the charge, any findings of discrimination or dismissals will be provided to the EEO Office.

7. Human Resources shall refer any orders for conciliation to the Office of the Attorney General.

8. Formal charge case files and records are confidential and the property of the Department of Corrections.

APPLICABILITY

1. This regulation does not require an Operational Procedure.
2. This regulation does not require an audit.



James G. Cox, Director

5/30/12
Date